

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

In re:	*	Case No. 09-51245
	*	Chapter 11
NATCO, INC.,	*	
	*	
Debtor	*	
<hr style="border-top: 1px dashed black;"/>		
NATCO, INC.,	*	
	*	
Plaintiff	*	
	*	
VS.	*	ADVERSARY PROCEEDING
	*	NO. 2:09-SP-05047
HONORABLE DOROTHY M. LUNDIN,	*	
CLERK OF THE 25th JUDICIAL DISTRICT	*	
COURT FOR THE PARISH OF PLAQUEMINES;	*	
ENVIRONMENTAL OPERATORS, L.L.C.;	*	
TRAVELERS CASUALTY & SURETY	*	
COMPANY OF AMERICA; PLAQUEMINES	*	
PARISH GOVERNMENT,	*	
Defendants	*	

**ANSWER, COUNTERCLAIM
AND CROSSCLAIM FOR INTERPLEADER**

Defendant, The Honorable Dorothy M. Lundin, Clerk of the 25th Judicial District Court for the Parish of Plaquemines ("Lundin"), in answer to the Plaintiff's Complaint, states as follows:

1. Answering Paragraph 1, it is admitted that this Court has jurisdiction over this matter to the extent a claim for relief is stated.

2. Answering Paragraph 2, it admitted that venue is proper in this Court to the extent a claim for relief is stated.

3. Answering Paragraph 3, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3.

4. Answering Paragraph 4, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4.

5. Answering Paragraph 5, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5.

6. Answering Paragraph 6, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6.

7. Answering Paragraph 7, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7.

8. Answering Paragraph 8, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8.

9. Answering Paragraph 9, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Answering Paragraph 10, it is admitted that a petition for amounts due and to enforce, recognize and maintain lien and privilege was filed by Environmental Operators, L.L.C. on July 18, 2007 in the 25th Judicial District Court for the Parish of Plaquemines, as referenced in Exhibit F to the Complaint. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 10.

11. Answering Paragraph 11, it is admitted that NATCO, Inc., Travelers Casualty & Surety Company of America, and David Cooper filed an answer and additional affirmative defenses of NATCO, Inc., Travelers Casualty & Surety Company of America and David Cooper as referenced in Exhibit G to the Complaint. It is further admitted that the Plaquemines Parish Goverment [sic] filed an answer as referenced in Exhibit H. It is further admitted that Plaquemines Parish Goverment [sic] filed a petition for concursus on March 7, 2008. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 11.

12. Answering Paragraph 12, the allegations contained therein are admitted.

13. Answering Paragraph 13, it is admitted that the 25th Judicial District Court for the Parish of Plaquemines, State of Louisiana, entered a Judgment which was filed on June 23, 2008, and which is attached as Exhibit L to the Complaint. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 13.

14. Answering Paragraph 14, the allegations contained therein are admitted.

15. Answering Paragraph 15, it is admitted that on August 13, 2008, the District Court entered an Order that is attached as Exhibit O to the Complaint. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15.

16. Answering Paragraph 16, the allegations contained therein are admitted with respect to the averments related to Exhibit B and Exhibit Q to the Complaint. It is also admitted

that the undisputed in the amount of \$215,550.00 have been distributed to Environmental Operators, L.L.C. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 16.

17. Answering Paragraph 17, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. Answering Paragraph 18, the allegations contained therein are admitted.

19. Answering Paragraph 19, the allegations contained therein are admitted.

20. Answering Paragraph 20, the allegations contained therein are admitted.

21. Answering Paragraph 21, the allegations contained therein are admitted, but Lundin avers that a response to such demand has not been made inasmuch as she does not have the basis to determine who is entitled to the funds currently held in the Clerk's Registry.

22. Answering Paragraph 22, Lundin adopts and incorporates herein by reference her answers to Paragraph Nos. 1 through 21 of the Complaint.

23. Answering Paragraph 23, the allegations contained therein are denied.

24. Answering Paragraph 24, it is admitted that if Lundin is in fact a custodian under 11 U.S.C. § 543, she has certain duties with respect to the funds at issue under such statute, provided such funds constitute property of the Debtor.

25. Answering Paragraph 25, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

26. Answering Paragraph 26, Lundin adopts and incorporates herein by reference her responses to Paragraph Nos. 1 through 25 of the Complaint.

27. Answering Paragraph 27, Lundin is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27.

28. Answering Paragraph 28, the allegations contained therein are denied.

29. Answering Paragraph 29, Lundin denies that she has violated 11 U.S.C. § 543 or 11 U.S.C. § 362 inasmuch as there is a genuine dispute as to the ownership of the funds currently held in the Court's Registry. Lundin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 29.

30. All allegations not hereinabove either admitted or denied are hereby denied.

WHEREFORE, Lundin requests that this action as against her be dismissed.

COUNTERCLAIM AND CROSSCLAIM FOR INTERPLEADER

Defendant, The Honorable Dorothy M. Lundin, Clerk of the 25th Judicial District Court for the Parish of Plaquemines, assumes the role of Cross-Plaintiff and Counter-Plaintiff, and for counterclaim for interpleader against Plaintiff NATCO, Inc. and for crossclaim for interpleader

against Defendants Environmental Operators, L.L.C., Travelers Casualty and Surety Company of America and Plaquemines Parish Government, avers as follows.

1. Counter-Plaintiff The Honorable Dorothy M. Lundin is the Clerk of the 25th Judicial District Court for the Parish of Plaquemines (the "District Court").

2. In March 2007, Plaquemines Parish Government ("Plaquemines Parish") entered into a contract with NATCO, Inc. ("NATCO") for a Hurricane Katrina debris removal project. Cross-Defendant Travelers Casualty and Surety Company of America ("Travelers") issued a surety bond securing the performance of NATCO of certain obligations under this contract. Thereafter, NATCO entered into a non-hazardous waste deposal service agreement with Cross-Defendant Environmental Operators, L.L.C. ("Environmental Operators") wherein Environmental Operators agreed to accept certain debris which NATCO removed from the Parish pursuant to its contract with Plaquemines Parish.

3. Thereafter, a dispute arose between NATCO and Environmental Operators regarding whether or not Environmental Operators was entitled to be compensated on a lump-sum basis as opposed to a price per cubic yard of debris accepted. Such dispute resulted in Environmental Operators filing a lien in the District Court seeking to enforce certain rights under its subcontract agreement with NATCO.

4. Cross-Defendant Plaquemines Parish thereafter filed a petition for concursus seeking to deposit the amount that remained owing under its contract with NATCO into the Registry of the District Court thereby fulfilling its obligations to NATCO under its contract. The District Court granted this request. Thereafter, the District Court authorized the disbursement of the sum of \$215,550.00 of these proceeds.

5. Ms. Lundin retains the sum of \$229,170.30 for which NATCO seeks recovery under this action. Lundin does not have a basis to determine as to whether NATCO or Environmental Operators are entitled to these funds and is merely a stakeholder in this proceeding.

6. Fed. R. Civ. P. 22(a)(2), made applicable to these proceedings by Fed. Bankr. R. 7022, permits a defendant exposed to double or multiple liability to seek interpleader through a crossclaim or counterclaim.

7. Lundin avers that, inasmuch as she has no basis for determining who is entitled to the funds that remain in the Registry of the District Court related to the dispute between NATCO and Environmental Operators, she is exposed to a double or multiple liability with NATCO and Environmental Operators. As a result, Lundin seeks permission of the Court to interplead these funds and, upon tender thereof into the Registry of this Court, being released from any future or further liability in this matter.

WHEREFORE, Counter-Plaintiff and Cross-Plaintiff The Honorable Dorothy M. Lundin, Clerk of the 25th Judicial District Court for the Parish of Plaquemines requests relief as follows:

1. That Counter-Defendant NATCO, Inc. and Cross-Defendants Environmental Operators, L.L.C., Travelers Casualty and Surety Company of America and Parish Plaquemines Government respond to this counterclaim and crossclaim within the time permitted by law;

2. That Lundin be permitted to interplead the funds she currently holds from the dispute among the parties in the District Court into the Registry of this Court and thereafter be released from any further liability or obligation to any party to this proceeding; and

3. That Lundin be granted such further general or specific relief as the Court deems property.

HUNTER, SMITH & DAVIS, LLP

By: /s/Mark S. Dessauer

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 28, 2009 the **Answer and Counterclaim for Interpleader** was filed electronically. The following parties will receive copies of these documents. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties, if any, have been served by hand delivery, overnight delivery, facsimile transmission, or by mailing a copy of same by United States Mail, postage prepaid.

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/s/ Mark S. Dessauer

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DESSAUER: K-L: LUNDIN
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